

**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, with consent of owners, is requesting the following setback variances for a proposed temporary concrete batch plant (on this agenda, BZA-1874):

1. 61.5' from the southern property line instead of the required 100';
2. 80.91' from the northern property line instead of the required 100'; and
3. 88.96' from the eastern property line instead of the required 100' (UZO 4-4-8);

on a triangular-shaped piece of property located north of CR 900 N and west of the Norfolk Southern Railroad, adjacent to the new Hoosier Heartland in Washington 01(SW) 24-3.

**AREA ZONING PATTERNS:**

The subject property is zoned A, Agricultural, as is all property surrounding. A special exception and variance for this exact site, with the same petitioner and same variances was approved in July 2012 (BZA-1800 & 1801). A temporary borrow pit, which was completed in November 2009 and is now a private pond, is located just south of this site (BZA-1772).

**AREA LAND USE PATTERNS:**

The triangular-shaped unimproved site abuts the newly constructed Hoosier Heartland. Property surrounding the site is a mix of wooded and agricultural; a few large lot residences are located west on 900 N, becoming more prevalent closer to Old SR 25.

**TRAFFIC AND TRANSPORTATION:**

There is now a Hoosier Heartland Corridor Bridge that goes over County Road 900 N just west of this site. Loaded batch trucks will leave the proposed plant, enter onto CR 900 N and travel west to Old ST 25. Trucks will then travel north approximately 1/2 mile on Old SR 25 then go east on the new Hoosier Heartland. Because CR 900 N was recently repaved and striped by the State as part of the Hoosier Heartland project, County Highway will require petitioner to receive a driveway permit and have a road maintenance agreement/bond in place; petitioner will need to provide a copy of these items to staff.

In addition to loaded batch trucks, materials will be delivered to the site including sand, stone and cement. Four employees will park on site in front of the proposed office trailer.

## STAFF COMMENTS:

In conjunction with these variances, petitioner is requesting a special exception for a temporary batch plant (BZA-1874) in operation until May 1, 2014. The subject property was part of a larger 45 acre tract before INDOT acquired right-of-way for the Hoosier Heartland corridor; right-of-way purchased created three separate tracts. This triangular site is bordered on the east by the Norfolk Southern railroad tracks, the south by CR 900 N, and creating a northwesterly border is the Hoosier Heartland.

Because a temporary batch plant is classified as an open use, the open use setback of 100' from all property lines must be observed. The batch plant is centrally located on site to minimize the setback requests on all sides of the lot. Because of its triangular shape, petitioner's effort to minimize variance requests, and adverse affects on surrounding properties, staff can recommend approval of the requested setbacks.

Regarding the ballot items:

1. The Area Plan Commission at its February 20, 2013 meeting determined that the variances requested **ARE NOT** use variances.

And it is staff's opinion that:

2. Granting the variances **WILL NOT** be injurious to the public health, safety, and general welfare of the community. This property is appropriate for a temporary batch plant because it is located close to an entrance onto the Hoosier Heartland and close to the current construction site of the unopened portion of the Hoosier Heartland being constructed in Carroll County. As with all activity involved in the construction of the Hoosier Heartland, the proposed use is temporary in nature and will not have a permanent presence at this location. Additionally, one of the goals of the Unified Zoning Ordinance includes "facilitating the adequate provision of transportation." Granting the variances will allow petitioner to fulfill that goal with the completion of the long-awaited Hoosier Heartland corridor.
3. Use and value of the area adjacent to the property included in the variance requests **WILL NOT** be affected in a substantially adverse manner. The nearest neighbor affected by these requests previously allowed a haul road for trucks carrying fill material located on the property. Additionally, the impact on neighboring properties will be no greater than the previous construction of the Hoosier Heartland.
4. When INDOT purchased right-of-way for the Hoosier Heartland, this property, once part of a larger 45 acre tract, took on its triangular shape and small size. Because of its size, shape and proximity to the newly constructed bridges, the terms of the zoning ordinance are being applied to a situation that **IS NOT** common to other properties in the same zoning district.
5. Strict application of the terms of the zoning ordinance **WILL** result in a hardship as defined in the zoning ordinance. The challenges in siting a temporary batch plant at this location and meeting ordinance standards were not caused by petitioner, but by

a right-of-way taking.

5a. The hardship involved **IS NOT** self-imposed or solely based on a perceived reduction of or restriction on economic gain. In fact, locating a batch plant on the subject property may well reduce fuel costs and project completion time, lessening the costs on all taxpayers.

5b. Petitioner attempted to minimize its variance requests while still maintaining enough space to keep the proposed project viable. Therefore, the variances sought **DO** provide the minimum relief needed to alleviate the hardship.

**STAFF RECOMMENDATION:**

Variance #1 (61.5' from the southern property line): Approval

Variance #2 (80.91' from the northern property line): Approval

Variance #3 (88.96' from the eastern property line): Approval

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**BZA-1874**  
**E&B PAVING, Inc.**  
**Special Exception**

**Staff Report**  
**February 21, 2013**

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**REQUEST MADE, PROPOSED USE, LOCATION:**

Petitioner, with consent of owners, is requesting a special exception to permit a temporary concrete batch plant (SIC 1611, Footnote 9). The plant will produce concrete for paving the Hoosier Heartland in Carroll County and will be in operation until May 1, 2014. Petitioner is proposing operating hours of Monday through Saturday 6:00 a.m. until 6:30 p.m. The A-zoned property is located north of CR 900 N and directly west of the Norfolk Southern Railroad in Washington 01 (SW) 24-3. (UZO 3-2, Footnote 9)

**For AREA ZONING PATTERN, AREA LAND USE PATTERNS, and TRAFFIC AND TRANSPORTATION:**

See BZA-1876

**ENVIRONMENTAL AND UTILITY CONSIDERATIONS:**

Petitioner indicated that it takes roughly 20 gallons of water to produce one cubic yard of concrete; at its busiest (2100 cubic yards of concrete) 42,000 gallons of water are needed for daily production. Petitioner acknowledges this is a significant amount and ran a test well in 2009 to mimic intense water usage for 24 hours to ensure that this use will not impact the water table. Petitioner has spoken before with neighbors about possible negative effects on the water table and neighboring wells and will continue to monitor the water table with pressure meters and gauges to measure water flow. Based on the results of their test well and previous batch plant, petitioner does not anticipate any problems but has agreed to haul in water if there are any adverse effects on the water table or neighbors' wells. Staff required a commitment in 2009 that required hauling in of water if there were negative effects; that same commitment will be a condition of this approval. Petitioner has stated that there was not a problem with the water table during its previous work at this site.

**STAFF COMMENTS:**

Petitioner's proposed temporary batch plant would be in operation from March 2013 until May 1, 2014 for continued paving of the Hoosier Heartland in Carroll County. Footnote 9 states that SIC 1611-Concrete and Asphalt contractors are permitted in the A zone by special exception but *only* as temporary batch plants. Since temporary batch plants are open uses, a 100' setback from all property lines is required. Petitioner is also requesting several setback variances; no bufferyard is required for temporary batch plants.

Petitioner's selected location adjacent to the Hoosier Heartland is appropriate for the proposed use because the amount of time spent on county roads is minimal, which lessens adverse affects on neighbors, decreases project time and possibly reduces costs.

Petitioner has indicated that on the busiest day, roughly 210 loaded trucks will leave the site; during a ten-hour workday that amounts to 20 trucks an hour. This volume of truck traffic will not occur every day, but activity will be in short, intense bursts, scattered among days suitable for paving. Hours of operation proposed are generally 8 hours a day from 7:00 a.m. until 3:00 p.m., Monday through Saturday, with the anomalous twelve hour plant workday during occasional busy times. No outdoor lighting is proposed, so no work will begin before sunrise and all work will end before dusk. Noise produced from a temporary batch plant will be no more intrusive than noise associated with the construction of the Hoosier Heartland.

At its meeting on February 6, 2013 the Executive Committee of the Area Plan Commission voted that granting this request would not substantially adversely affect the Comprehensive Plan.

Regarding the ballot items:

1. Section 3.1, Footnote 9 to the Primary Use Table of the Unified Zoning Ordinance **DOES** authorize the special exception for a temporary batch plant (SIC 1611) in the A zoning district.

And it is staff's opinion that:

2. The requirements and development standards for the requested use as prescribed by the Unified Zoning Ordinance **WILL** be met if the variances regarding setbacks (BZA-1876) are approved. All other development standards can be met.
3. Granting the special exception **WILL NOT** subvert the general purposes served by the Ordinance. In fact, one of the goals of the Unified Zoning Ordinance includes "to facilitate the adequate provision of transportation." Granting this special exception will promote that goal.
4. Granting the special exception **WILL NOT** materially and permanently injure other property or uses in the same district and vicinity because of:
  - a. Traffic generation: At times, petitioner's use will generate 210 truck trips per day. Staff recognizes this level of activity will come in short bursts, and some days there will be no trucks leaving the plant at all. In addition to other construction traffic, the average amount of additional traffic created by this use will have no negative effects on neighboring uses.
  - b. Placement of outdoor lighting: The only outdoor lighting proposed is a light over the control house door; there will be no overhead parking lot lights. The amount of lighting shown is typical of a rural area.

- c. Noise production: The sources of noise are typical truck noise and a “drum mixer producing ready-mix concrete” for construction which are no more intense than noises associated with the recently completed Hoosier Heartland.
- d. Hours of operation: 6:00 a.m. until 6:30 p.m. Monday through Saturday are reasonable operating hours. Petitioner indicated that there may be atypical days when the crew works 10-12 hour days, lasting until 6:30 p.m.; even those hours are in line with typical construction work. Staff can find no incompatibility with the proposed hours.

**STAFF RECOMMENDATION:**

Approval, with the following condition and commitment:

1. **Condition:** Prior to obtaining an Improvement Location Permit, petitioner must provide staff with an approved driveway permit from County Highway ;and
2. **Commitment:** The prior recorded commitment must be updated and recorded to accommodate this request. A copy of the updated and recorded document must be provided to staff which states that if petitioner’s use creates any negative effects on neighboring wells or the water table, that water for the use will be provided from off-site and hauled to the batch plant.